

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Phyllis H. Witcher,) C.A. No.: 07-213 ***
v. Plaintiff,) JURY TRIAL DEMANDED
Murray H. Witcher, Jr.,)
Defendant)

DEFENDANT'S MOTION TO DISMISS THE COMPLAINT

Defendant, Murray H. Witcher, Jr., by and through the undersigned attorney, hereby moves, pursuant to Federal Rule of Procedure 12(b)(1), to dismiss the Complaint filed against him by Phyllis H. Witcher for the reasons stated in the accompanying Opening Brief.

WHEREFORE, based on the reasons set forth in his Opening Brief, Defendant respectfully requests this Court to issue an Order dismissing the Complaint and for such other relief as is just and proper.

Dated: July 2, 2007

FERRY, JOSEPH & PEARCE, P.A.

/s/ Lisa L. Coggins

Jason C. Powell, Esquire (No. 3768)
Lisa L. Coggins, Esquire (No. 4234)
824 Market Street, Suite 904
P.O. Box 1351
Wilmington, DE 19899
Tel: (302) 575-1555
Attorneys for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 2 , 2007, one copy of the foregoing Defendant's Motion to Dismiss the Complaint was served upon the following party by first class mail:

Phyllis H. Witcher
2304 Riddle Avenue C2
Wilmington, DE 19806

/s/ Lisa L. Coggins
Lisa L. Coggins, Esquire (No. 4234)

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)
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)
)

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS**

Upon consideration of the Defendant's motion dismiss the complaint and the briefs, and arguments in conjunction with the motion, and finding good cause for the entry of an Order in favor of the Defendant,

IT IS HEREBY ORDERED this _____ day of _____ 2007, that the complaint filed against Defendant, Murray H. Witcher, Jr., is dismissed.

J.